

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

DOCKET NO: 04-11933-NMG

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SPINIELLO COMPANIES,  
Plaintiff,

v.

BRICO INDUSTRIES, INC.  
Defendant.

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**JOINT MOTION TO CONTINUE THE TRIAL DATE**

The parties to this matter, hereby jointly move this Honorable Court for an order continuing the trial of this matter, which is presently scheduled for September 17, 2007, until November 5, 2007 or another date in November convenient to the Court. The parties also jointly move to change the September 13, 2007 Pretrial Conference into a Fed. R. Civ. P. 16 Scheduling Conference.

As grounds for this Motion, the parties state that the defendant, Brico Industries, Inc. filed a motion for summary judgment in October 2006, to which the plaintiff opposed. At this time, the Court has not made a decision on the Motion. The Court's decision on the summary judgment motion may make the trial unnecessary or may significantly limit the issues for trial. In either case, the parties seek to avoid incurring unnecessary costs in preparation for trial until the Court has time to make a decision. Additionally, if any part of the summary judgment motion is denied, the parties agree that they would like time to explore settlement negotiations. Thus, the parties ask for a November<sup>1</sup> trial date in order for there to be time for the Court to

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<sup>1</sup> As the parties seek to have a decision from the Court on the summary judgment motion before they expend monies to prepare for trial, the parties are open to obtaining a trial date other than in the month of November that is convenient to the Court and would give the Court time to consider the summary judgment motion.

make its decision on the motion for summary judgment, and if necessary, give the parties time to consider settlement possibilities and/or prepare for trial.

Additionally, the parties request that the Pretrial Conference scheduled for September 13, 2007 remain, but be turned into a Fed. R. Civ. P. 16 Scheduling Conference. The parties believe that a brief discussion with the Court regarding the timing of the trial and pretrial activities will fulfill Rule 16's Pretrial Conference Objectives of "discouraging wasteful pretrial activities" and "improve[] the quality of [a possible] trial through more thorough preparation." See Fed. R. Civ. P. 16(a)(3) & (4).

WHEREFORE, the parties request that the September 17, 2007 trial of this matter be continued to November 5, 2007 and the September 13, 2007 Pretrial Conference be turned into a Scheduling Conference.

Respectfully submitted,

**SPINIELLO COMPANIES**

**BRICO INDUSTRIES, INC.**

By its attorneys,

By its attorneys,

*/s/ Jeremy Blackowicz*

*/s/ Grace V. Bacon Garcia*

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DATED: June 27, 2007

**CERTIFICATE OF SERVICE**

I certify that this document has been served upon all counsel of record in compliance with the F.R.C.P.

*/s/ Grace V. Bacon Garcia*

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Grace V. Bacon Garcia

Date: June 27, 2007